DOCKET NO. US 010513 (PHIL06-00972)　　　　　　　　　　**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	:	Carolyn Christine Ramsey-Catan
Serial No.	:	09/973,356
Filed	:	October 9, 2001
For		TV SHOPPING MONITOR AND NOTIFICATION SYSTEM
Group No.	:	3625
Examiner	:	N.U. Haq

MAIL STOP APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPELLANT'S BRIEF ON APPEAL

This Brief is submitted on behalf of Appellant for the application identified above. A check for the $500.00 fee for filing a brief on appeal is enclosed. Please charge any additional necessary fees to Deposit Account No. 50-0208.

REAL PARTY IN INTEREST

The real party in interest for this appeal is the assignee of the application, KONINKLIJKE PHILIPS ELECTRONICS N.V.

RELATED APPEALS AND INTERFERENCES

There are no other currently pending appeals or interferences related to the present application.

STATUS OF CLAIMS

Claims 1–20 are pending in the present application. Claims 4 and 11 are objected to in the final Office Action, but were indicated to be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Claims 5–7 and 12–20 have been withdrawn from consideration, but have not been canceled. Claims 1–3 and 8–10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0143547 to *Headings et al.* The rejections of claims 1–3 and 8–10 under 35 U.S.C. § 103(a) is appealed.

STATUS OF AMENDMENTS

No amendments to the claims were submitted following the final Office Action mailed February 3, 2006.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention relates to remote electronic shopping, such as Internet purchases, for which a user desires to restrict purchases based on a user-specified limit. Specification, page 1, line 12 through page 2, line 19. A remote purchase controller 200 is implemented within an

electronic communications system, such as a home access device (telephone, computer or Internet-enabled television) coupled via the Internet or other communications network to a vendor system, includes periodic (e.g., monthly) limits for various users:

200

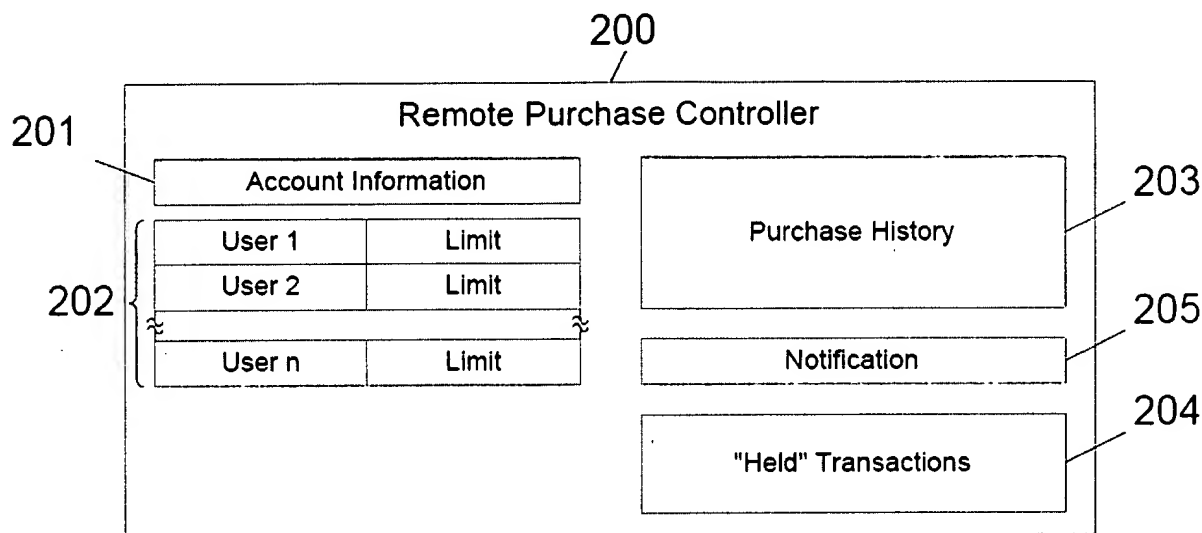| Remote Purchase Controller		
Account Information		**Purchase History**
User 1	Limit	
User 2	Limit	
User n	Limit	**Notification**
		"Held" Transactions

201
202
203
205
204

FIGURE 2

Specification, Figure 2, page 11, line 15 through page 12, line 24. The remote purchase controller 200 tracks purchases by an authorized user and maintains a running total for each user during a given period (e.g., month). Specification, page 13, lines 1-21. If a particular remote purchase requested by a user would cause that user to exceed their periodic limit, rather than merely ignoring (or discarding) the transaction or requesting a "manual" limit override approval from the controlling user, the remote purchase controller 200 may "hold" the transaction until a subsequent period (e.g., the following month) for completion during that period. Specification, page 15, lines 10-21. The request purchases may be held for completion on the first day of the subsequent period, or whenever the user accumulates a sufficient available spending balance for

the requested transaction (e.g., two or more months). Specification, page 16, lines 9-12. The remote purchase controller 200 may be customized by the user either to automatically process the transaction during the first day of the next period, or whenever the user's available spending limit exceeds the transaction's costs, or to re-present the transaction to the user during the next period for reconsideration by the user of whether the user still wishes to complete the purchase. Specification, page 16, lines 13-18.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1–3 and 8–10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Headings et al.*

ARGUMENT

Claims 1–3 and 8–10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Headings et al*

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4 October 2005). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. The teaching or suggestion to make the claimed combination and the reasonable

expectation of success must both be found in the prior art, and not based on applicant's

disclosure. *Id.*

Independent claims 1 and 8 each recite holding a purchase transaction *for processing*

during a subsequent period. The purchase transaction is held in response to determining that the

remote purchase transaction should not be completed based upon a purchase limit for the current

period. Such a feature is not found in the cited reference. *Headings et al* teaches crediting a first

account (for the payee) while debiting a second account (for the payor), and suspending the

credit to the first account if the debit to the second account cannot be posted (i.e., the transaction

is not approved). Nothing in *Headings et al* suggests that "suspending" a transaction (requiring

manual limit override and/or authorization, for instance) could include the alternative of holding

the transaction <u>until a subsequent period</u>, to be processed after a period-based limit is reset at the

start of the subsequent period.

The final Office Action states:

> The Applicant has argued that Headings does not teach holding a
> transaction for processing after determining that the transaction should not be
> completed based on a purchase limit. In addressing this limitation, the Examiner
> established a *prima facie* case of obviousness by showing that Headings provides
> sufficient teachings to render this limitation obvious to one of ordinary skill in the
> art. In particular, Headings teaches that the HoH can establish permissions such
> as spending limits for sub-accounts (paragraphs [0004], [0019], [0022]).
> Furthermore, Headings teaches suspending a transaction if a debit cannot be
> posted to a second account (claim 6). Thus the Examiner has established a *prima
> facie* case of obviousness, and the Examiner maintains the art rejection.

Paper No. 20060129, page 4. However, the limitation at issue is not merely "holding a

transaction for processing after determining that the transaction should not be completed based

on a purchase limit" as stated in the above-quoted language. Instead, the limitation in the claims recited holding a transaction for processing during a subsequent period – that is, holding the transaction at least until a subsequent period rather than, for example, until a manual override of the spending limit is entered within the current period.

Nothing in *Headings et al* suggests that the transaction exceeding a period-based limit may be held for processing during a subsequent period, when the period-based limit refreshes. The cited portions of the specification in *Headings et al* merely teach that the head of household (HoH) may set various limits for both the main account and the family member accounts:

> [0004] The present invention is generally directed to a system and method for creating and maintaining subscriber accounts. Two types of accounts are preferred: a head-of-household (HoH) account (a main account) and one or more family member accounts (sub-accounts). The head-of-household (HoH) account is the primary account holder who preferably controls all activity in the account, including any sub-accounts. The present system may be used to group accounts into service groups (groups defined by provider and/or level of service) and publishing groups (groups defined by demographics and/or viewing preferences). The grouping of accounts into publishing groups facilitates targeting advertisements to a particular account member. Each account may have established therewith permissions which place limits or restrictions on, for example, the material viewed, the amount spent, or viewing times.

> . . . .

> [0018] In step 108, an account number is assigned for each HOH account. In step 110, the HoH is queried as to whether one or more family accounts are to be created. If one or more family accounts are to be created, then in step 112, family member personal information is obtained similar to that information obtained in step 104. In step 114, sub-account numbers are assigned accordingly. In step 116, the HoH is queried as to whether another family member account is to be created. If another family member account is to be created, then steps 112 through 116 are repeated.

> . . . .

> [0022] As an example of using selective permissions amongst different family members, the HoH may impose a monthly spending limit of $45.00, restrict viewing of R-rated and Adult type movies and television shows for one family

member account, while on a different family member account, imposing a higher spending limit, restricting access to PG-rated material, and imposing no time restrictions. Once all account creation and permission establishments have been addressed, then in step 132 the account creation is completed. The aforementioned method steps need not be performed in the particular order as just described. Many steps are interchangeable, or may be omitted altogether. For example, the establishment of a form of payment may be done before HoH personal information is obtained. Further, accounts may be created without opportunity to create family member accounts, or may be created without an option to establish account permissions. Other account permissions are envisioned and within the scope of the present invention.

Nothing in these portions of *Headings et al* teaches holding a transaction exceeding a period-based limit until the next period. Similarly, cited claim 6 from *Headings et al* merely teaches that transactions to a first account (e.g., a services account such as an entertainment access account) will be suspended if no funds are available from the designated source of funds, the second account (e.g., a credit card account, a checking account, a savings account, and a debit card account):

> 6. The system of claim 1, wherein said processor is programmed to suspend the transactions associated with the first account if said debit cannot be posted to the second account.

Nothing in this portion of *Headings et al* relates to period-based limits on the first account, or holding a transaction during one period until a subsequent period. No motivation or incentive has been identified for combining suspension of transactions when no funds are available as taught in this portion of *Headings et al* with the period-based limits disclosed in the other portion of *Headings et al*.

Regardless, even the two cited portions of *Headings et al*, taken (improperly) in combination, do not satisfy the limitation, because neither portion discloses specifically

suspending a transaction exceeding a period-based limit <u>until a subsequent period</u> as recited in

the claims. No motivation or incentive for further modification of the actual teachings in

Headings et al to achieve this feature has been identified.

The Advisory Action states:

> Applicant's Remarks filed March 31, 2006 have been considered, but they are not persuasive. The Applicant has argued that the cited prior art does not teach holding a transaction for processing during a subsequent period. The Examiner respectfully disagrees. As noted in the previous Office Actions, Headings teaches suspending a transaction. Suspending a transaction is not the same as cancelling [sic] a transaction. One of ordinary skill in the art would realize that a suspended transaction would be processed at later time [sic] (i.e., subsequent processing). Therefore, the Examiner maintains the position that this limitation would have been obvious to one of ordinary skill in the art.

Paper No. 20060428, page 2. However, "subsequent processing" is not the same as "processing

during a subsequent period." The claims specifically contemplate period-based spending limits,

such as monthly spending limits. A transaction that is merely suspended for "subsequent

processing" when a manual override is provided <u>during the same period</u> does not satisfy the

limitation of processing <u>during a subsequent period</u>. A transaction suspended but subsequently

processed during the same period does not satisfy the limitation of holding the transaction for

processing during a <u>subsequent</u> period – that is, holding for processing later during the same

period is not identical to holding for processing during a subsequent period. The act of

"subsequent processing" is not necessarily period-based, and therefore does not inherently satisfy

the period-based limitation of "processing during a subsequent period."

Nor is there any motivation or incentive identified for modifying the general "subsequent

processing" to the specific "processing during a subsequent period."

The final rejection ignores the actual claim language, and effectively reads the limitation discussed above out of the claim. The limitation at issue is not merely "holding the remote purchase transaction *for subsequent processing*" as effectively asserted by the Examiner below, but is actually "holding the remote purchase transaction *for processing during a subsequent period.*"
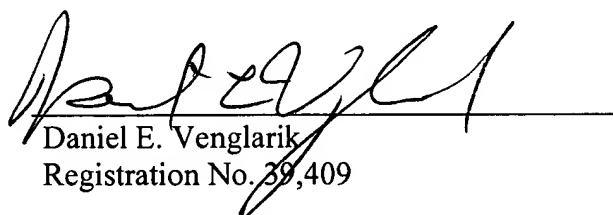
CONCLUSION

The cited reference does not depict or describe all features of the claimed invention in the appealed claims. Therefore, the rejection under 35 U.S.C. § 103 are improper. Applicant respectfully requests that the Board of Appeals reverse the decision of the Examiner below rejecting pending claims 1–3 and 8–10 in the application.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 7 - 12 - 2006

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CLAIMS APPENDIX

1.   A system for monitoring and controlling remote purchases comprising:

a home access device selectively coupled to at least one communications system; and

a remote purchase controller controlling remote purchases over the at least one

communications system involving the home access device, the remote purchase controller:

responsive to detecting an attempt to execute a remote purchase transaction, determining

whether the remote purchase transaction should be completed based upon a remote purchase

limit; and

responsive to determining that the remote purchase transaction should not be completed,

holding the remote purchase transaction for processing during a subsequent period.

2.   The system of claim 1 wherein the remote purchase controller, in determining whether

the remote purchase transaction should be completed based upon the remote purchase limit,

determines whether the remote purchase transaction involves an amount exceeding a remaining

available balance of the remote purchase limit for a current period.

3.   The system of claim 2 wherein the remote purchase controller, in determining whether

the remote purchase transaction should be completed based upon the remote purchase limit,

identifies which of a plurality of authorized users associated with an account to be employed in

the remote purchase transaction is attempting to execute the remote purchase transaction and

ascertains the remaining available balance of the remote purchase limit for the identified user for

the current period.

4.   The system of claim 3 wherein the remote purchase controller, in response to determining

that the remote purchase transaction involves an amount exceeding the remaining available

balance of the identified user's remote purchase limit for the current period,

       determines whether the remote purchase transaction amount exceeds the remaining

available balance of the identified user's remote purchase limit for a current period plus an over-

draft margin associated with the identified user's remote purchase limit,

       seeks an override of the remote purchase limit for the current period or for the remote

purchase transaction, and

       determines whether another of the plurality of authorized users will permit a portion of

the remote purchase transaction amount to be allocated against a remaining available balance for

the current period of a remote purchase limit for the other user.

5.   The system of claim 1 wherein the remote purchase controller automatically submits the remote purchase transaction for completion during the subsequent period.

6.   The system of claim 1 wherein the remote purchase controller prompts a user initiating the remote purchase transaction for resubmission of the remote purchase transaction during the subsequent period.

7.   The system of claim 1 wherein the home access device includes one or more of an Internet access device and a video receiver and wherein the remote purchase controller executes within the home access device.

8.   A home access device for monitoring and controlling remote purchases comprising:

a communications connection to at least one communications system; and

a remote purchase controller controlling remote purchases over the at least one communications system involving the home access device, the remote purchase controller:

responsive to detecting an attempt to execute a remote purchase transaction, determining whether the remote purchase transaction should be completed based upon a remote purchase limit; and

responsive to determining that the remote purchase transaction should not be completed, holding the remote purchase transaction for processing during a subsequent period.

9.   The home access device of claim 8 wherein the remote purchase controller, in determining whether the remote purchase transaction should be completed based upon the remote purchase limit, determines whether the remote purchase transaction involves an amount exceeding a remaining available balance of the remote purchase limit for a current period.

10.   The home access device of claim 9 wherein the remote purchase controller, in determining whether the remote purchase transaction should be completed based upon the remote purchase limit, identifies which of a plurality of authorized users associated with an account to be employed in the remote purchase transaction is attempting to execute the remote purchase transaction and ascertains the remaining available balance of the remote purchase limit for the identified user for the current period.

11.   The home access device of claim 10 wherein the remote purchase controller, in response

to determining that the remote purchase transaction involves an amount exceeding the remaining

available balance of the identified user's remote purchase limit for the current period,

determines whether the remote purchase transaction amount exceeds the remaining

available balance of the identified user's remote purchase limit for a current period plus an over-

draft margin associated with the identified user's remote purchase limit,

seeks an override of the remote purchase limit for the current period or for the remote

purchase transaction, and

determines whether another of the plurality of authorized users will permit a portion of

the remote purchase transaction amount to be allocated against a remaining available balance for

the current period of a remote purchase limit for the other user.

12.   The home access device of claim 8 wherein the remote purchase controller automatically

submits the remote purchase transaction for completion during the subsequent period.

13.   The home access device of claim 8 wherein the remote purchase controller prompts a

user initiating the remote purchase transaction for resubmission of the remote purchase

transaction during the subsequent period.

14.   The home access device of claim 8 wherein the home access device includes one or more

of an Internet access device and a video receiver and wherein the remote purchase controller

executes within the home access device.

15.   A method for monitoring and controlling remote purchases comprising:

        responsive to detecting an attempt to execute a remote purchase transaction, determining

whether the remote purchase transaction should be completed based upon a remote purchase

limit; and

        responsive to determining that the remote purchase transaction should not be completed,

holding the remote purchase transaction for processing during a subsequent period.

16.   The method of claim 15 wherein the step of determining whether the remote purchase

transaction should be completed based upon the remote purchase limit further comprises:

        determining whether the remote purchase transaction involves an amount exceeding a

remaining available balance of the remote purchase limit for a current period.

17.   The method of claim 16 wherein the step of determining whether the remote purchase

transaction should be completed based upon the remote purchase limit further comprises:

identifying which of a plurality of authorized users associated with an account to be

employed in the remote purchase transaction is attempting to execute the remote purchase

transaction; and

ascertaining the remaining available balance of the remote purchase limit for the

identified user for the current period.

18.   The method of claim 17 wherein the step of determining whether the remote purchase

transaction should be completed based upon the remote purchase limit further comprises:

upon determining that the remote purchase transaction involves an amount exceeding the

remaining available balance of the identified user's remote purchase limit for the current period,

determining whether the remote purchase transaction amount exceeds the remaining

available balance of the identified user's remote purchase limit for a current period plus an over-

draft margin associated with the identified user's remote purchase limit,

seeking an override of the remote purchase limit for the current period or for the remote

purchase transaction, and

determining whether another of the plurality of authorized users will permit a portion of

the remote purchase transaction amount to be allocated against a remaining available balance for

the current period of a remote purchase limit for the other user.

19.   The method of claim 15 further comprising:

automatically submitting the remote purchase transaction for completion during the

subsequent period.

20.   The method of claim 15 further comprising:

prompting a user initiating the remote purchase transaction for resubmission of the

remote purchase transaction during the subsequent period.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

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Sir:

The undersigned hereby certifies that the following documents:

1.   Appeal Brief;
2.   Check in the amount of $500.00 for the Appeal Brief filing fee; and
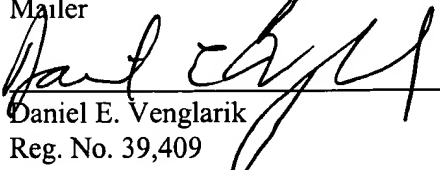3.   Two (2) postcard receipts

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to MAIL STOP APPEAL BRIEF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>July 12, 2006</u>.

Date: __7 -12 - 2006__

Mailer

Date: __7 - 12 - 2006__

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